

**TESTIMONY OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE PUBLIC LANDS AND FORESTS
S. 1420, OUTFITTER POLICY ACT
MARCH 3, 2004**

Introduction

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 1420, the Outfitter Policy Act. The Department of the Interior shares the Committee's interest in enhancing opportunities for recreational use of the nation's public lands.

Background

Outfitters and guides provide key services to visitors on the public lands. Under permits issued by Department agencies, outfitters and guides offer a wide variety of activities for outdoor recreation, such as hunting, river rafting, backcountry horse pack trips, and wilderness adventures. We do not underestimate the value of these services. Indeed, we view outfitters and guides as important partners who provide valuable services that contribute to ensure safe and enjoyable experiences for those who visit and recreate on our public lands. They cater to those who view the public lands as gateways to adventure and discovery. Outfitters and guides provide services and opportunities to populations that may not otherwise gain access to public lands, including important educational and interpretive services. Of the approximately 53 million visitors in 2003, we estimate that about 1 million employed outfitters and guides while recreating on BLM-managed lands. In FY 2003 alone, the BLM issued over 3000 permits to outfitters and guides for different types of recreational activities across 261 million acres of public land. The BLM collected \$3 million in fees from these permits in FY 2003.

We recognize the important role we must play not only in fostering the development of these opportunities for our visitors, but also in making every effort to ensure that the process for outfitters and guides is efficient and fair while protecting our valuable resources. We also understand and appreciate the economic impact of these activities as the majority of outfitters and guides are individuals or small businesses whose services are critical elements of local economies.

The majority of outfitter and guide permits this bill addresses are issued by the Bureau of Land Management (BLM). The BLM permitting system is codified in regulations (43 CFR 2932) and is managed through a Manual and Handbook. Ensuring consistent application of our permitting system, a safe and satisfying visitor experience, a mutually beneficial working relationship with outfitters and guides, and preservation of natural and historic resources, are priorities for the BLM recreation program.

Other Department agencies also issue permits to outfitters and guides. At the U.S. Fish and Wildlife Service, most outfitter or guide permits are handled on a case-by-case basis, considering biological soundness, effects on other refuge programs, and public demand. The Bureau of Reclamation manages outfitters and other visitor services through commercial concession operations under a licensing authority using a special recreation permit.

BLM initiatives

The BLM has taken administrative action on many of the issues raised in S. 1420. For example, in order to provide better customer service, reduce administrative paperwork, and provide consistent law enforcement on BLM-managed lands, the BLM issued updated rules for "Recreation Use Permits" and "Special Recreation Permits" on February 6, 2004. One key provision changes the potential tenure of permits from the previous 5 years to as many as 10 years. This change was made to improve the opportunities for outfitters to engage in, and invest in, successful business ventures, while giving land managers the flexibility to respond to changes in resource condition, unforeseen changes in public demand, or other reasonable and substantial changes, such as management and activity plan updates.

To help address cross-jurisdictional situations, the BLM and the Forest Service have developed cooperative arrangements to improve customer service. In areas where an outfitter or guide is crossing Federal land jurisdictions, the BLM and Forest Service have worked to ensure permittees are only paying for the time spent on public lands and there is no duplication of fees. In some areas we have coordinated management of a resource so that one agency manages the permitting, and outfitters and guides need interact with only one agency. Examples of this can be found on the Rogue River in Oregon and the Kern River in California.

Also, the BLM provides discounts on standardized fees based on individual circumstances and has begun to simplify auditing arrangements with willing industry partners.

S. 1420

The Department supports the purpose of S. 1420, especially the provisions related to permit performance evaluation; permit renewal, revocation and suspension; and liability. We share a common goal to develop consistent terms and conditions while facilitating public opportunities for recreational use and enjoyment of public lands. As discussed earlier, the Department has recently developed new regulations that we believe are consistent with the purposes of this legislation. The Department does have concerns with some of the provisions as outlined in the current bill. We look forward to working closely with the Committee to address them so that we can provide the best services to both outfitters and visitors on our public lands.

First, the Department of the Interior agencies strive to work in the most reasonable way to accommodate the needs of running an outfitting or guide service. The Department also must manage the outfitting programs to provide a fair market return to the American public and ensure that the fee system is consistently and fairly applied to all permittees. We support the concept of allowing flexibility in the fee structure to account for unique situations or regional differences, but we are concerned that Section 5 of S. 1420, as drafted, does not provide sufficient guidance on this point. We would like to work with the Committee and sponsor of the bill to clarify how or when the bureaus should consider financial obligations or reasonable business opportunities as a part of determining fees. We also believe it is important to more clearly define the terms and expectations to ensure that the bureaus can precisely implement the legislation and carry out congressional intent.

Second, under this legislation the Department would have 180 days to act on the transfer of an outfitter permit. There may be any number of extenuating circumstances requiring agencies to take more than the 180 days outlined in the bill. We think more flexibility for permit transfers better ensures the safe and responsible use of the public lands. Again, we look forward to working with the Committee to address this concern with a time frame that addresses these concerns and ensures fairness to operators.

We believe the definition of "Commercial Outfitted Activity," in S.1420, may inadvertently include activities not intended to be covered by this legislation. For example, there are certain academic activities involving grade school, high school or college students that take place on public lands which are designed to further one's knowledge and understanding of resource and science-related issues that could conceivably fall under the definition of a "Commercial Outfitted Activity." We would also like to clarify the provisions of the bill concerning two-year temporary permits. We suggest temporary permits should have terms not to exceed one year. If an outfitter's performance is found to be satisfactory, a second one year extension is routinely granted. This method has worked well in the past and provides us the flexibility to provide the highest standards in visitor protection and resource management.

Finally, many of the important outfitted activities the Department manages occur on waterways. Including Federally-managed waterways in the definition of "Federal land" would be very beneficial in developing comprehensive legislation.

Conclusion

The Department will continue to work closely with the outfitters and guides to improve customer service and resource management. We look forward to working with the Committee to address the issues raised in this statement as well as some technical corrections. Thank you for the opportunity to share the Department's views on S.1420. I will be happy to answer any question you may have.